US EPA Region 10 Freedom of Information Act (FOIA) Standard Operating Procedure (SOP)

March 2015, Revision 0

INTRODUCTION

The Freedom of Information Act (FOIA), 5 U.S.C. § 552 was passed into law in 1966. The law gives any person the right to obtain access to federal agency records except when such records or portions of such records are protected from public disclosure by a FOIA exemption.

This SOP provides information for internal purposes only about the roles, responsibilities and procedures for responding to FOIA requests in Region 10.

PHASE 1: REGIONAL INTAKE

Who: Regional FOIA Officer/Regional FOIA Assistant/FOIA Coordinator

Step 1 – Receipt of a FOIA Request

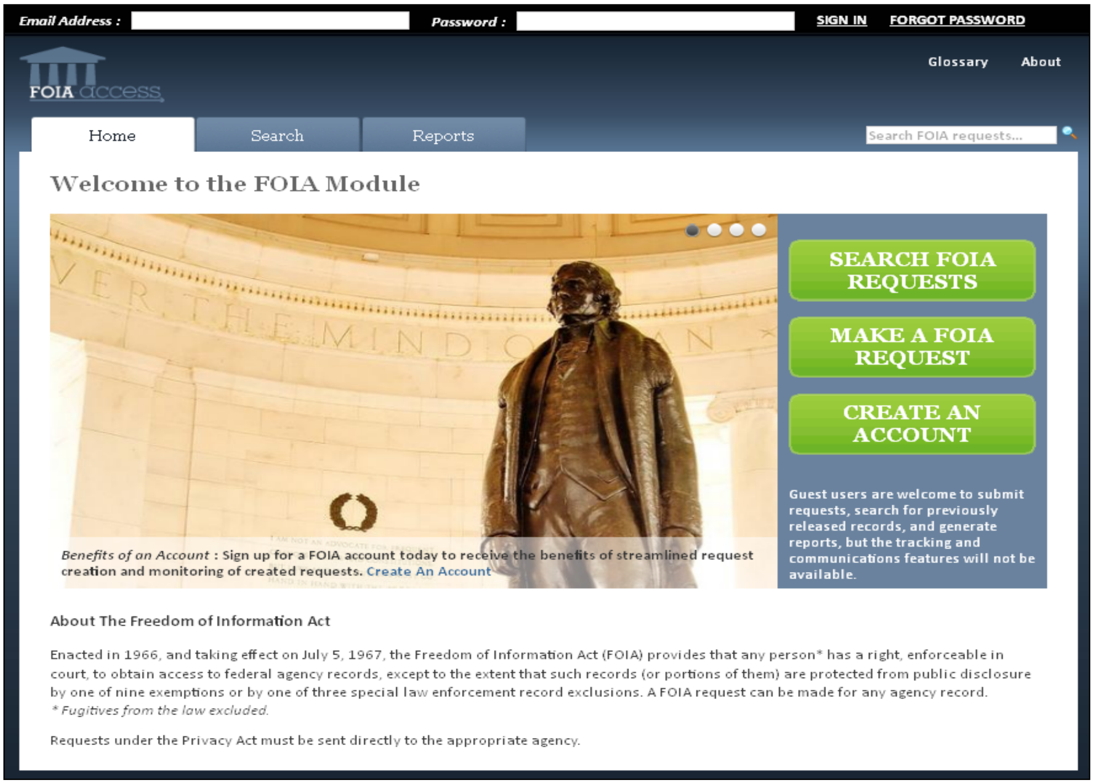
FOIA requests are received through FOIAonline, postal service, fax, or email. If a request for Agency records is received directly in a program office or addressed to program staff, the recipient of the FOIA request should immediately send it to the Regional FOIA Officer for processing.

TOOLS AND CHECKLISTS FOR FOIA COORDINATORS

- *Procedures for Responding to FOIA Requests, Section 6 - Procedures*
- *FOIA process overview checklist*
- *Request for Clarification sample*
- *FOIAonline Resources, Training Videos, Submission*

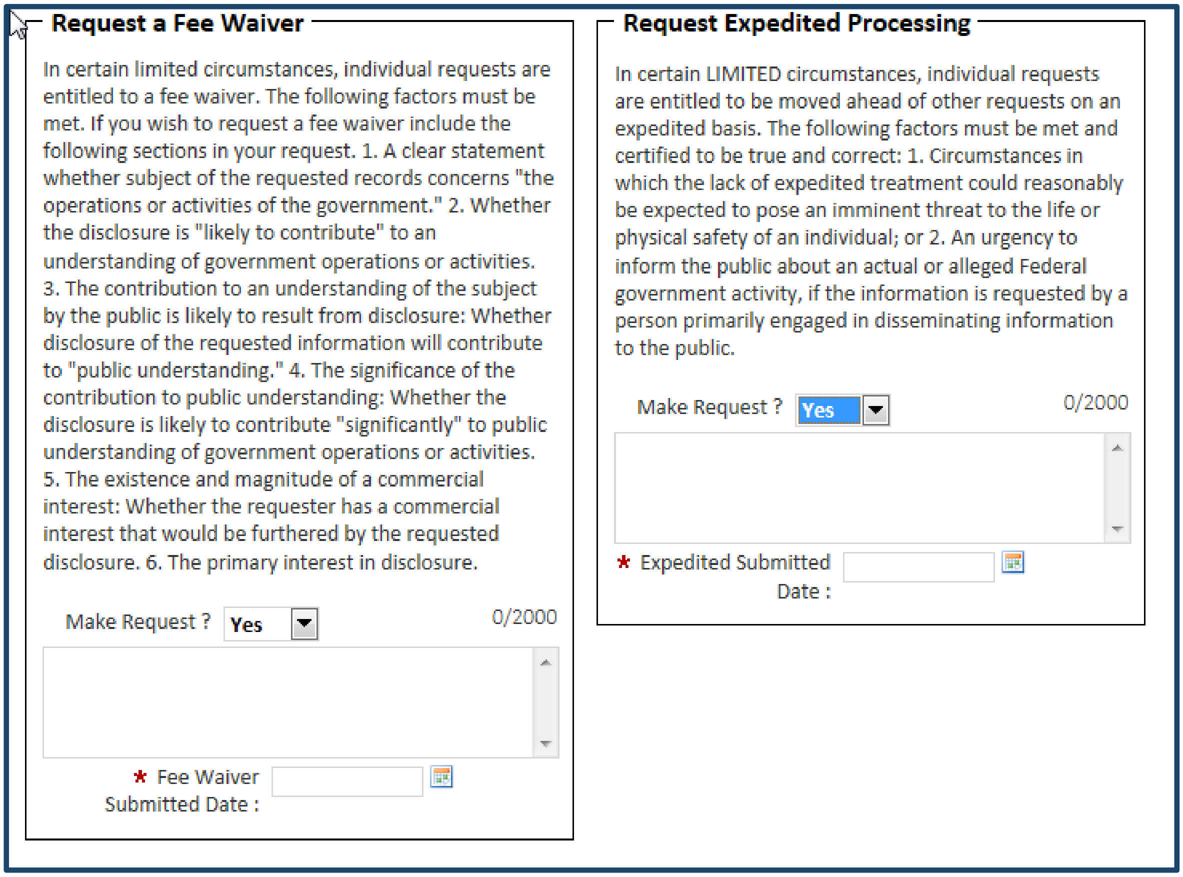
- ☐ Check FOIAonline several times throughout the business day for new requests. Requests received after 2 PM PST or on weekends or holidays are not considered ‘received’ until the next business day.
- ☐ If the FOIA request is received through FOIAonline, skip down to Step 2 – Review Request**.** FOIA requests received outside of FOIAonline, must be entered into FOIAonline by the Regional FOIA Officer or Regional FOIA Assistant. To enter a FOIA request into FOIAonline, follow these steps:

- The FOIA Officer or Regional FOIA Assistant signs into FOIAonline.
- Select '**Proceed**' at Privacy and Use Notice.



- Select '**New Request**' to enter request detail data into the following fields:
- **'Select Agency'**: Environmental Protection Agency; then select '**Sub-Agency**': Region 10 (AK, ID, OR, WA). The '**Submitted Date**' is the date the request is received in the FOIA Office.
- Enter requester address, organization, email, phone number under **'Contact Information'**. If requester did not provide an email, consider calling the requester to ask if they would like to provide their email address.
- For **'Processing Fees'**, enter the dollar amount that the requester offered to pay for FOIA processing in request letter.
- For **'Description',** type in the description of the requester's records request (preferably copy/paste directly from the request, otherwise carefully summarize).

- **Request for Fee Waiver**. A request for a fee waiver may be a simple statement, such as “I request a fee waiver” or the requester may provide a detailed written justification with their request. Select the ‘Yes’ or ‘No’ checkbox accordingly (see screen shot below). If you select ‘Yes’, enter “see request letter” and enter the date the request is entered into FOIAonline in the box titled ‘**Fee Waiver Submitted Date**’. See Step 4 for detailed fee waiver processing instructions. FOIAonline will create a separate Fee Waiver task assignment.



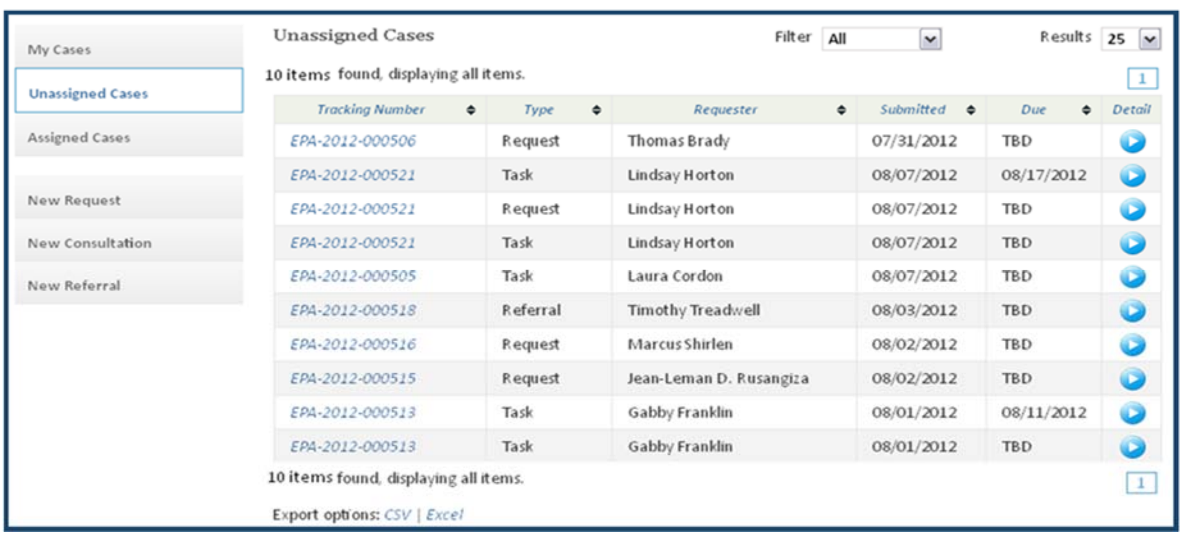
- **Request for Expedited Processing.** Requesters may ask for expedited processing of their request. Requests for expedited processing may range from requester selecting the option when submitting their request, a simple statement such as “I request expedited processing of my request” or they may provide a detailed explanation of their need for expedited processing in the request letter. Select ‘Yes’ or ‘No’ accordingly (see screen shot below). If you select ‘Yes’, enter “see request letter” and the date that the request is being entered into FOIAonline (see Step 4 for Expedited Processing instructions). FOIAonline will create a separate Expedited Processing task assignment.

- **Attach Supporting Files,** select 'browse' to navigate to the file. Double-click on the request and it will upload to the FOIAonline case file.
- Select the green '**Preview** 'button to review the information you entered for accuracy and edit if corrections are needed. In the preview mode, FOIAonline will alert you if information missing.
- If the entry is correct, select '**Submit**'. FOIAonline will accept request, assign a tracking number and send an acknowledgment email to the requester if the requester provided their email address. The newly entered request will be listed in '**Unassigned Cases'.**
- If the requester did not provide an email address, the FOIA Officer/Assistant will mail a signed and dated letter of acknowledgement to requester's physical address (see Region 10 Info Page FOIA Process for sample letters). The acknowledgement letter will include the case tracking number and coordinator contact information. Click on the calendar icon and select today's date to indicate date of agency's acknowledgement of request. Upload a copy of the signed/dated letter to the case file as '**Other**' under the '**Correspondence**' tab.
- The FOIA Officer or Assistant should enter the request within one business day of receipt.

STEP 2 – Review Request

Every request must be reviewed to determine if it is a proper request consistent with the FOIA regulations. Requests should be reviewed by the FOIA Officer or Assistant within one business day of receipt.

☐ Click on '**Unassigned Cases**' to retrieve a list of new or unassigned FOIA requests. Click on the '**Tracking Number**' to open to a request.



☐ To view the FOIA details, expand the window by clicking on the round blue arrow button. The ‘**Request Detail**’ screen has all of the FOIA case information.

☐ Use the guidelines below to determine if the request is proper under FOIA. If it is a proper request, proceed to Step 3. If it is not a proper request, contact the requester to notify them of the problem or to obtain additional information or clarification as appropriate (see Sample Request for Clarification). Anytime additional information or a clarification is received from the requester, the new information must be entered into FOIAonline in the ‘**Submission Details’**, ‘**Request Description’**, then select the **‘Has Description Been Modified**’ box. Enter description of request revision or clarification in editable field.

A proper FOIA request is:

- *In writing;*
- *Includes requester’s mailing address;*
- *Asks for Agency records; and*
- *Reasonably describes the records sought.*

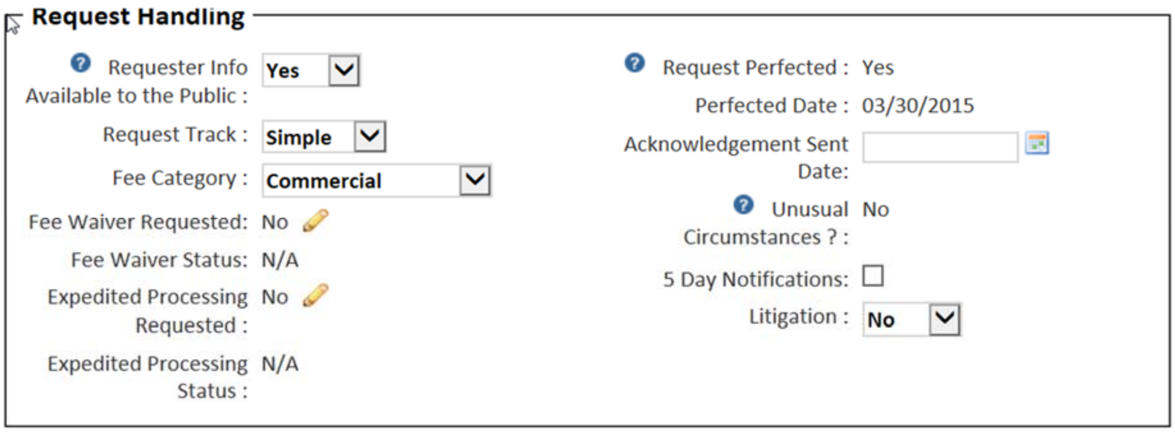
Improper FOIA requests include:

- *Requests that do not reasonably describe the records sought;*
- *Requests that pose questions, rather than seek documents.*

The Freedom of Information Act does not require EPA to:

- *Create new records or future records in response to a request;*
- *Re-create records which were properly disposed of;*
- *Produce records the Agency retains no control over;*
- *Re-provide records which EPA already makes available to the public; or*
- *Produce purely personal records.*

☐ The '**Submission Details Tab**' includes request handling, request description and supporting files information. '**Request Handling**' contains information pertaining to the request track, the requester's fee category, whether or not special handling or processing was requested, if the request is perfected, and if notifications should be associated with the request.



☐ For all newly received FOIA requests, make the following designations:

- **Requester Info Available to the Public.** Select 'Yes'.
- **Request Track.** The default is Simple. This can be changed to Complex by the Lead Office. Note that the 20-day response deadline still applies unless the 10-day extension is warranted or a revised date is negotiated.
- **Fee Category.** The FOIA Officer will assign the appropriate fee category in accordance with 40 C.F.R. 2.107. Follow these links for descriptions of Commercial, Other, Educational/Media fee categories.
- **Description**: The Requester may attach a formal written request letter with a detailed description of records they seek, full substantial fee waiver justification and/or certified statement for expedited processing. The FOIA Officer/Regional FOIA Assistant should copy/paste the description of the requested records or carefully summarize.
- If the request is from a commercial, educational, media or public interest entity and does not include any personal/private information, the request should be designated as '**Description Available to the Public**' by selecting '**Yes**'. If the request is from a private citizen or entity that includes personal information such as their home address, email address or phone number, either select '**No**' or redact personal/private information from the request letter, upload the redacted version to the FOIAonline case and select '**Yes**' for public availability.

- Select '**Create Comment**' from the Actions Menu (refer to Step 3 for Actions Menu information) to enter special handling instructions such as: fee waiver and/or expedited request instructions; create tasks to other appropriate office(s) to search for records; assign the track (i.e., simple or complex) that is appropriate to the scope of the request; or refer requester to previous FOIA case for responsive records.
- **Request Perfected**. Select 'Yes' if 1) request is received in R10 FOIA office; 2) request is in writing and 3) request reasonably describes records. A description reasonably describes the records sought when enough information is provided to enable a professional Agency employee who is familiar with the subject matter to locate the records with a reasonable amount of effort.

THE CLOCK

Initially, EPA has 20 business days to respond to a request. Stopping the clock pauses the entire FOIA process, extending the 20-day deadline.

What can stop the clock?

- *Request for a fee waiver*
- *One time clarification request from EPA to the requester*
- *If assurance of payment is needed.*

When these issue are resolved, the clock starts again.

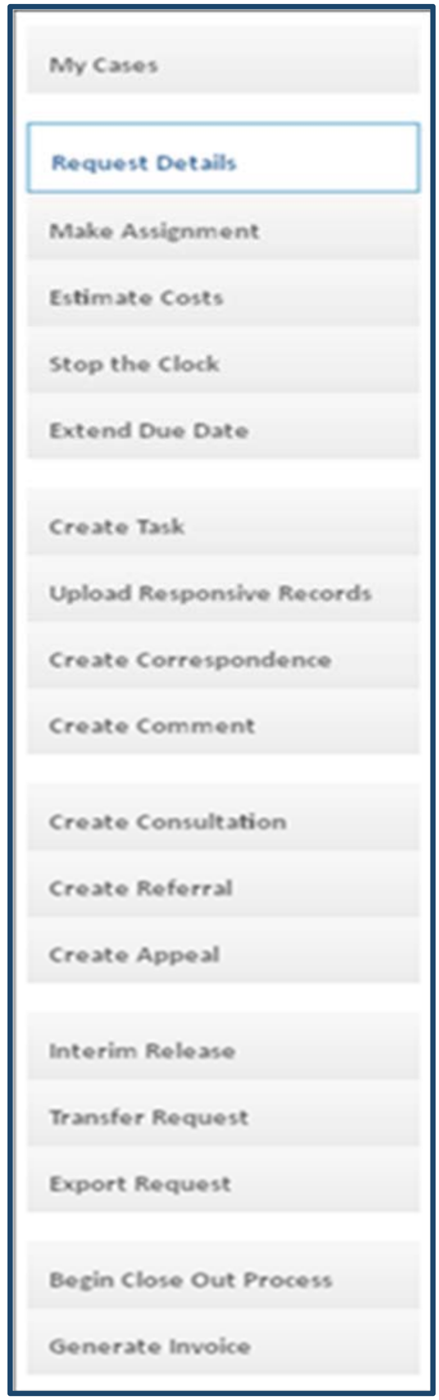
Remember to click:

THE CLOCK STARTS WHEN THE FOIA REQUEST IS PERFECTED!

A note about misdirected FOIAs: If a FOIA request is received in Region 10 and the majority of the responsive records are determined to be located with another Regional Office, Headquarters or another federal agency, the Region 10 FOIA Officer will determine where the FOIA belongs and assign the request to the appropriate office or agency for processing. If the Region 10 FOIA Office does not know where responsive records are located, the Region 10 FOIA Officer will consult with the Region 10 Program Offices, Headquarters or other Regional FOIA Office to determine where the request belongs. FOIA allows agencies up to 10 business days to route a misdirected request before the 20 business day response period begins.

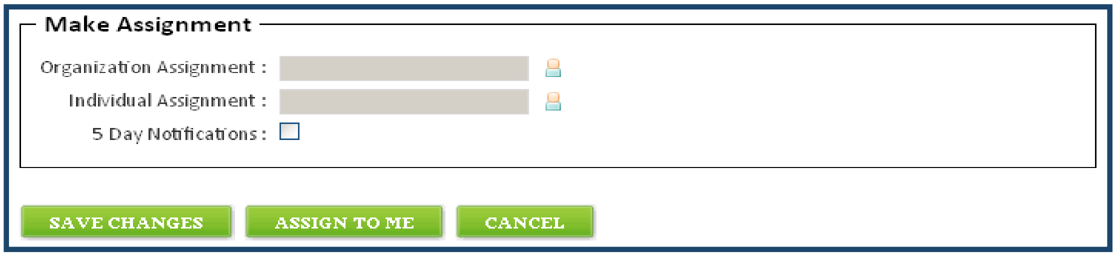
Step 3 – Assign Case to a Lead Office

The '**Actions Menu'** is the list of actions that display on the left side of the screen when you open a request. Tasks assignments cannot be created until the case is perfected (see Phase 1, Step 2 above). The list of actions for a perfected request are: Make Assignment, Estimate Costs, Stop the Clock, Extend Due Date, Create Task, Upload Responsive Records, Create Correspondence, Create Comment, Create Consultation, Create Referral, Create Appeal, Interim Release, Transfer Request, Export Request, Begin Close Out Process, and Generate Invoice.

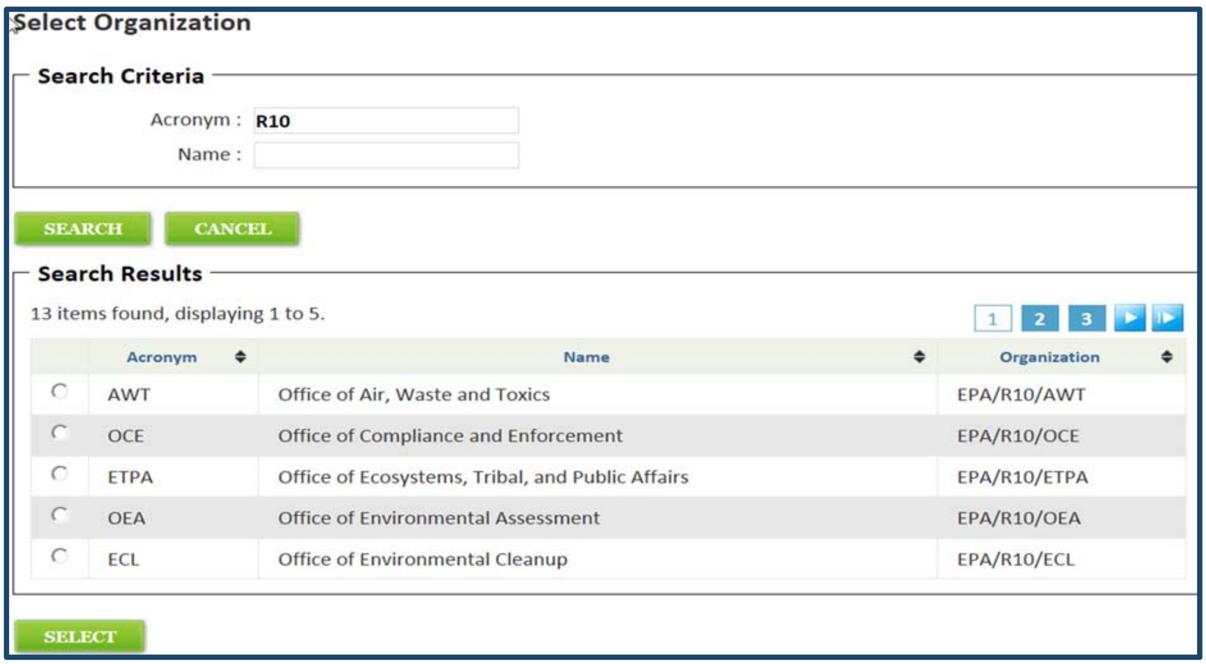


Actions are limited when a request is not perfected. For example, the only actions that will display for an unperfected request are: Make Assignment, Estimate Costs, Create Correspondence, Create Comment, Create Appeal, Interim Release, Transfer Request, Export Request, and Begin Close-Out Process. See Phase 1, Step 2 above for instructions on how to perfect a request.

- ☐ **Assign Request to Lead Office**. The FOIA Officer or Regional FOIA Assistant assigns the request to the Lead Office which is the office most likely to have the majority of responsive documents.
- ☐ Select '**Make Assignment**' from the action menu to assign request to the appropriate office to lead and coordinate regional response. Click in the Organization Assignment field and the Select Organization screen will open.

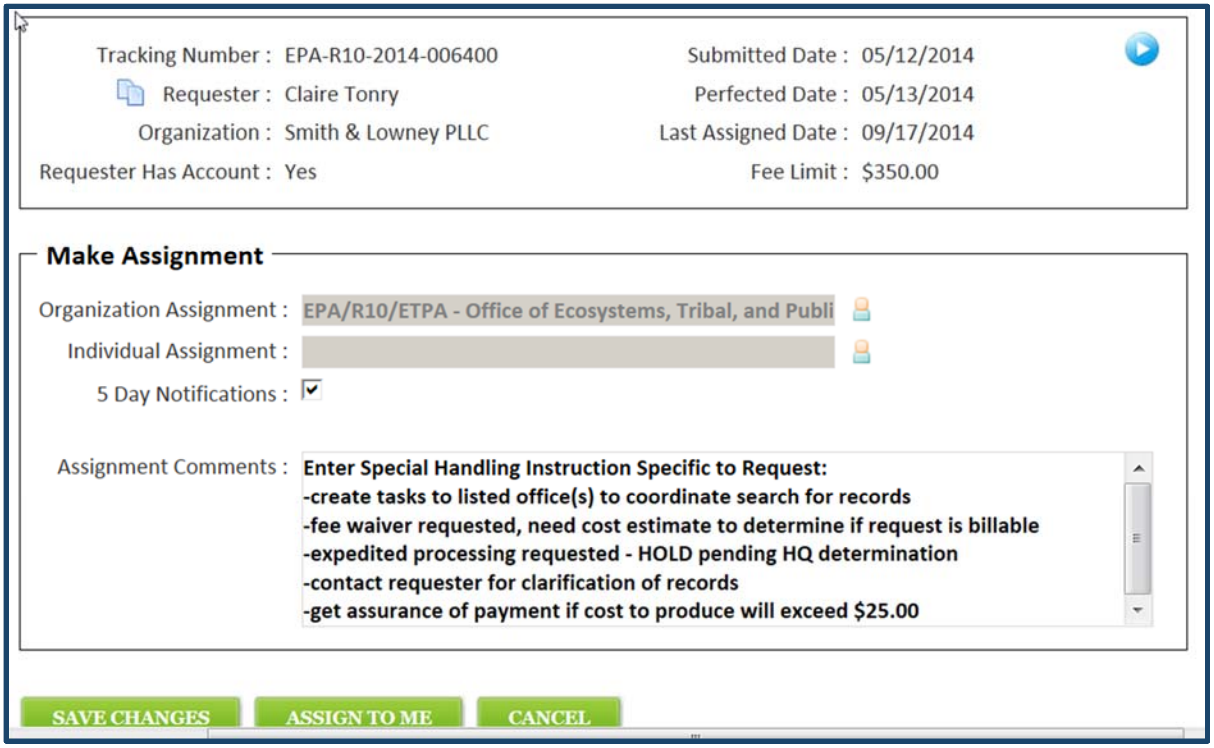


☐ The '**Select Organization**' screen will open and show R10 office organizations for you to select a Lead Office. (*If the request requires total transfer to HQ or another region, change the search criteria Acronym from R10 to HQ or the appropriate region that* should *receive the request).* Click Select. The selected office will populate the Organization Assignment field, then select Save Changes.



Select '**5-Day**' notifications checkbox. This feature will send email notifications to the Coordinator in the selected office every 5 days if action has not been taken.

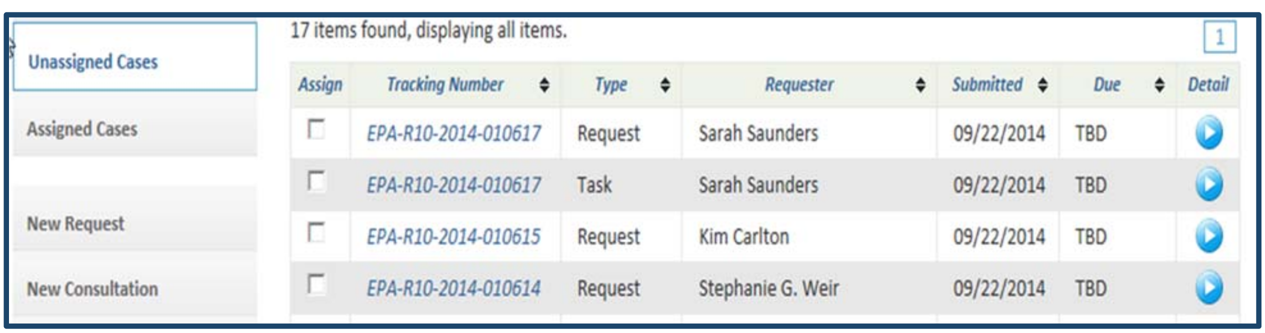
- Under '**Assignment Comments**', enter special handling instructions required to process the request or other details/information that may be useful to assist with accurate task assignments, coordination with other programs, or Headquarter's Offices.



The FOIA Request case assignment will go to the selected office and will be removed from your Unassigned Cases view. The case assignment should be completed within one day after the request is perfected.

Step 4 – Processing Tasks for Fee Waiver and Expedited Processing Requests *(if no Fee Waiver or Expedited Processing request, skip to Phase 2)*

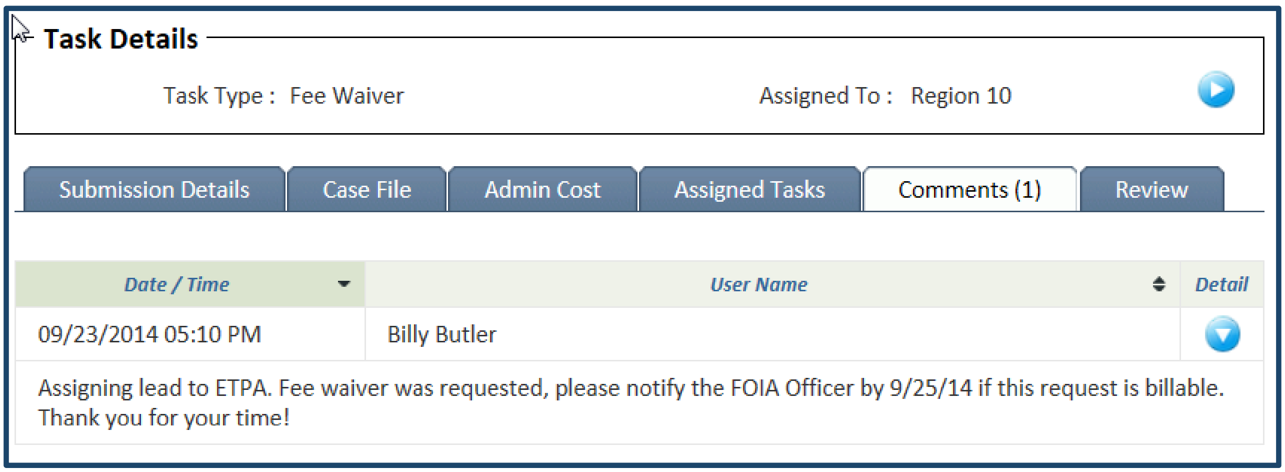
Requesters may ask for a fee waiver or expedited processing when submitting their FOIA request. FOIAonline creates a separate Task in the Unassigned Cases view. Requests for fee waivers and expedited processing should be assigned to HQ FOIA office for processing within 48 hours of regional receipt of the request. See *Section 6, Step 4 of the national FOIA SOP* for more information.



☐ Select '**Make Assignment'**. Follow steps in **Step 2** above to review, perfect and assign Request to the appropriate Lead Office. In the '**Assignment Comments'** field box, enter special handling instructions:

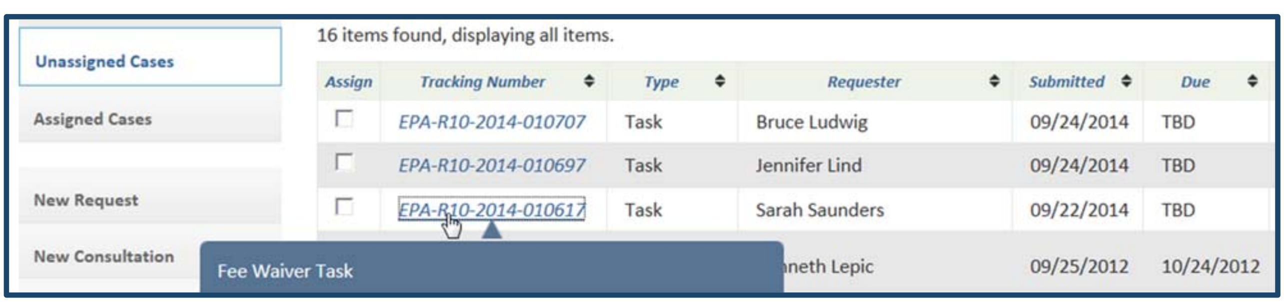
- For a Fee Waiver: Notify Regional FOIA Officer within 48 hours of receipt of FOIA request if cost estimate is billable. (If the charge to requester is expected to be at least $14.00 is it billable). See Phase 2 Step 6 below to determine charges.
- For Expedited Processing: Expedited processing requested. HQ FOIA Officer will process and issue determination.

The Lead Coordinator will notify the Regional FOIA Officer whether the request is billable or not. If the request is billable, the Regional FOIA Officer will then assign the task assignment to HQ FOIA office to make the determination whether the fee waiver request should be granted. If the request is not billable a fee waiver determination is not necessary.



Remember to click:

☐ Assign the Fee Waiver and/or Expedited Processing Task to HQ FOIA Office for Determination. From Unassigned Cases view, select the Task tracking number to open the case.



- Make Assignment to HQ Organization (the HQ FOIA Office).
- Select 5-Day Notifications box.
- In the Assignment Comments field, communicate to HQ FOIA Specialists whether the request is billable or unbillable, Save Changes.

The fee waiver or expedited processing task is now assigned to HQ FOIA Office for processing and will be removed from your Unassigned Cases view. HQ will issue their determination directly to the requester, upload a copy of the determination to the FOIAonline case and FOIAonline will issue a notification email only to the Lead Coordinator. The Lead Coordinator will inform other offices when the fee waiver or expedited processing determination is made.

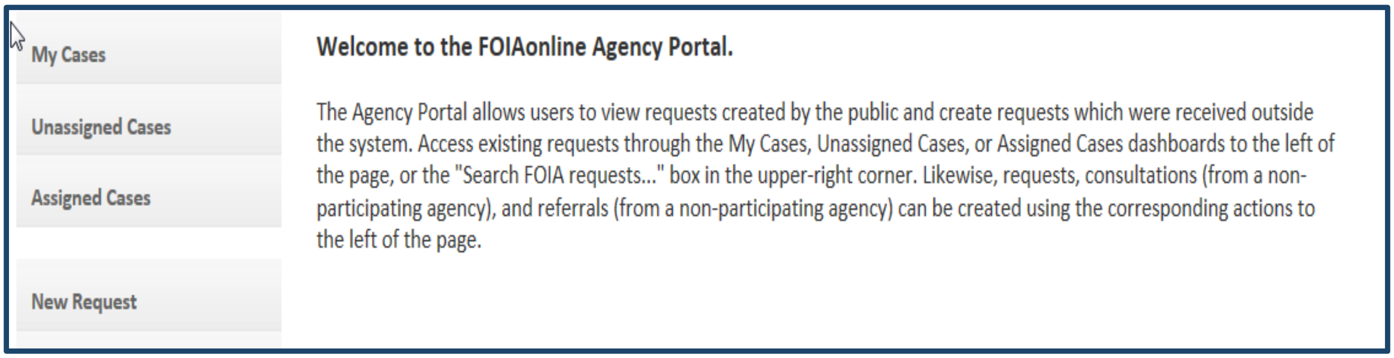
PHASE 2: OFFICE INTAKE

Who: FOIA Coordinator

Note: Requests are already perfected and the clock has started prior to office assignment.

Step 1 – Check FOIAonline for Unassigned Cases for the Program Office

At least twice a day, each FOIA Coordinator should check FOIAonline for new cases in the Unassigned Cases view. FOIAonline will issue an email notification when a new case is assigned to your office.

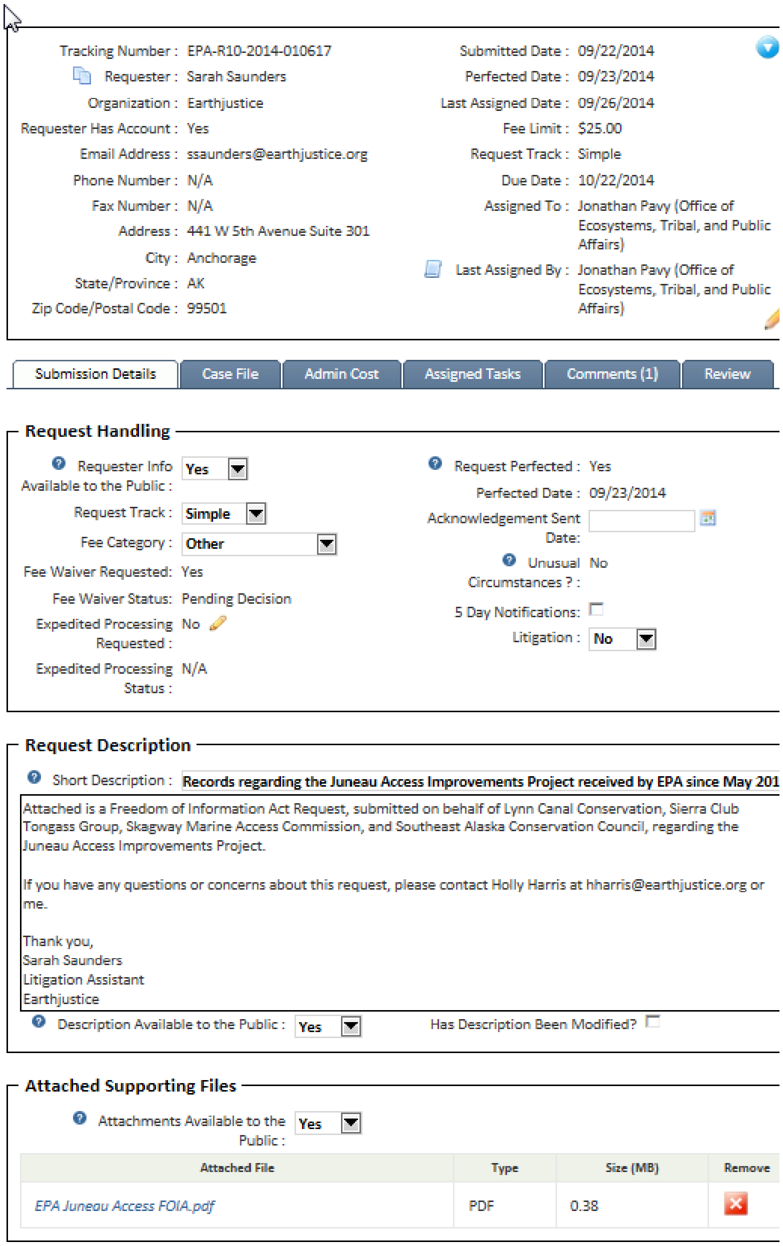


Step 2 – Confirm Assignment to Lead Office is Correct

- ☐ Read request (not just the summary), any attachments, correspondence and 'Comments' for any special handling instructions – *see FOIA Case File screenshot below.*
- ☐ Determine if your office has been appropriately assigned as the Lead Office for the FOIA. Typically, the office with the most records or responsibility for the subject matter of the request is assigned as the Lead Office. If correctly assigned proceed to Step 3.
- ☐ If incorrectly assigned, reassign it to the appropriate Lead Office or if unknown contact the Regional FOIA Officer/FOIA Assistant. Even if not the Lead, if your office has responsive records proceed to Step 3.

TOOLS AND CHECKLISTS FOR FOIA COORDINATORS

- ♦ *FOIA Procedures, Steps 5 – 9*
- ♦ *InfoPage – FOIA Process*
  - – *FOIA Process Overview Checklist*
  - – *Checklist for Response Strategy*
  - – *Response Letters and Templates*
  - – *Records Available on FOIAonline*



Tracking Number : EPA-R10-2014-010617
Requester : Sarah Saunders
Organization : Earthjustice
Requester Has Account : Yes
Email Address : ssaunders@earthjustice.org
Phone Number : N/A
Fax Number : N/A
Address : 441 W 5th Avenue Suite 301
City : Anchorage
State/Province : AK
Zip Code/Postal Code : 99501

Submitted Date : 09/22/2014
Perfected Date : 09/23/2014
Last Assigned Date : 09/26/2014
Fee Limit : $25.00
Request Track : Simple
Due Date : 10/22/2014
Assigned To : Jonathan Pavy (Office of Ecosystems, Tribal, and Public Affairs)
Last Assigned By : Jonathan Pavy (Office of Ecosystems, Tribal, and Public Affairs)

Submission Details | Case File | Admin Cost | Assigned Tasks | Comments (1) | Review

Request Handling

Requester Info Available to the Public : Yes
Request Track : Simple
Fee Category : Other
Fee Waiver Requested: Yes
Fee Waiver Status: Pending Decision
Expedited Processing Requested : No
Expedited Processing Status : N/A

Request Perfected : Yes
Perfected Date : 09/23/2014
Acknowledgement Sent Date:
Unusual Circumstances ? : No
5 Day Notifications:
Litigation : No

Request Description

Short Description : Records regarding the Juneau Access Improvements Project received by EPA since May 201

Attached is a Freedom of Information Act Request, submitted on behalf of Lynn Canal Conservation, Sierra Club Tongass Group, Skagway Marine Access Commission, and Southeast Alaska Conservation Council, regarding the Juneau Access Improvements Project.

If you have any questions or concerns about this request, please contact Holly Harris at hharris@earthjustice.org or me.

Thank you,
Sarah Saunders
Litigation Assistant
Earthjustice

Description Available to the Public : Yes
Has Description Been Modified?

Attached Supporting Files

Attachments Available to the Public : Yes

Attached File	Type	Size (MB)	Remove
EPA Juneau Access FOIA.pdf	PDF	0.38	

- Click on the Blue hyperlink to expand field to review more requester information, fee agreement, due date, and office assignment.
- Fee category, requests for fee waivers and/or expedited processing are in Request Handling field.
- Check Comments tab for special handling instructions
- Review request description. If an attachment is added to Attached Supporting Files field, open and review the attachment. Some requesters will include a formal written request letter with a detailed description of records being requested, provide a full justification for fee waiver and/or a certified statement for their request for expedited processing.

Step 3 – Assign to Self

Select ‘**Make Assignment**’ and ‘**Assign to Me**’. This will move the request from ‘Unassigned Cases**’** to ‘**My Cases**’. You will maintain control over cases assigned within your office.

Step 4 – Determine if Records have Previously been Released and/or Determine the Track of the Assignment

- ☐ Determine if documents have previously been released or are otherwise available publicly by checking FOIAonline, relying on personal knowledge, consulting with supervisors or staff, or, if one has been established, office-specific FOIA database. If all requested records are already publicly available on FOIAonline, use Records Available on FOIAonline sample letter to respond to the requester and skip to Phase 5.
- ☐ Review '**Comment Tab**' for special handling instructions (e.g., is there a fee waiver request, expedited processing request, coordinate with HQ or other Regions, etc.) If there is a fee waiver or expedited processing request, proceed to Phase 2 Step 6.
- ☐ Reply to Region 10 FOIA Officer regarding special handling instructions - same day if possible (outside of FOIAonline is preferred).
- ☐ Determine Track-Change to complex if voluminous records, multiple SMEs or locations. Note that the 20-day response deadline still applies unless the 10-day extension is warranted or a revised date is negotiated.

Step 5 – Determine Lead, Associate Subject Matter Experts (SMEs) and responsible manager(s)

- ☐ If not apparent to you, create task assignment(s) in FOIAonline (with a 1-day due date) to the Unit Manager(s) to appoint a lead SME or work with your office management to determine and confirm lead and associate subject matter experts (SMEs).
- ☐ Consult with Lead SME to identify other staff or offices in Region10, other Regions or Headquarters or SMEs that may have responsive records. See Phase 2 Step 7 below.

Step 6 – Fee Waiver Request: Estimate Processing Fee (skip to Step 7 if no fee waiver request) or Expedited Processing Request

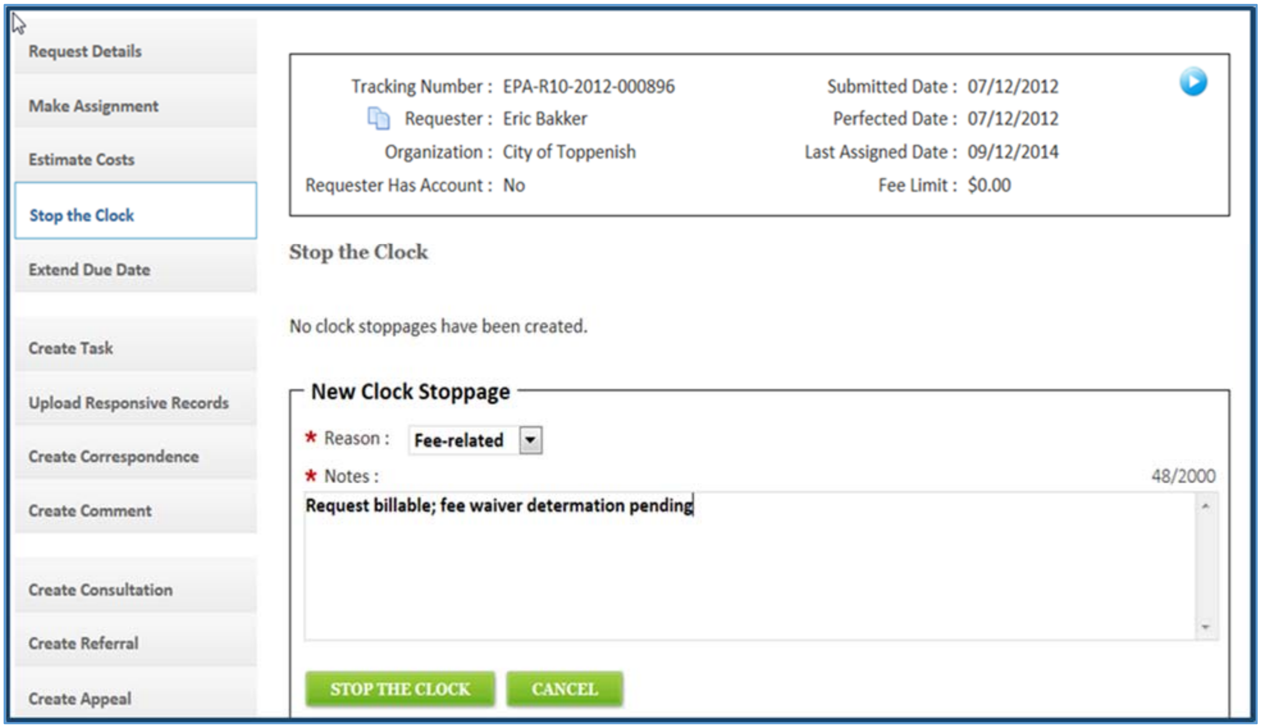
If a fee waiver is requested, work with Lead SME to determine if request is billable (chargeable fees are expected to be over $14.00) and inform FOIA Officer within 2 days of office assignment.

You may need to consult with the SME to determine if:

- it will require more than two hours of chargeable search time to locate records, or
- there will be more than 100 chargeable pages to duplicate or convert from hardcopy to electronic format.

Notify Regional FOIA Officer within 2 days of receiving office assignment whether the request is likely to be billable or not.

If the request is billable, **stop the clock**. The request will be on hold pending Headquarter's fee waiver determination.



Generally, requests are produced on first-in first-out basis. If a request for '**Expedited Processing**' is approved by HQ, the request is given priority and is the next request to process.

Step 7 –Develop Response Strategy and Coordination

Confer with Lead SME to determine scope of FOIA and the response strategy. Refer to the Checklist to develop the response strategy.

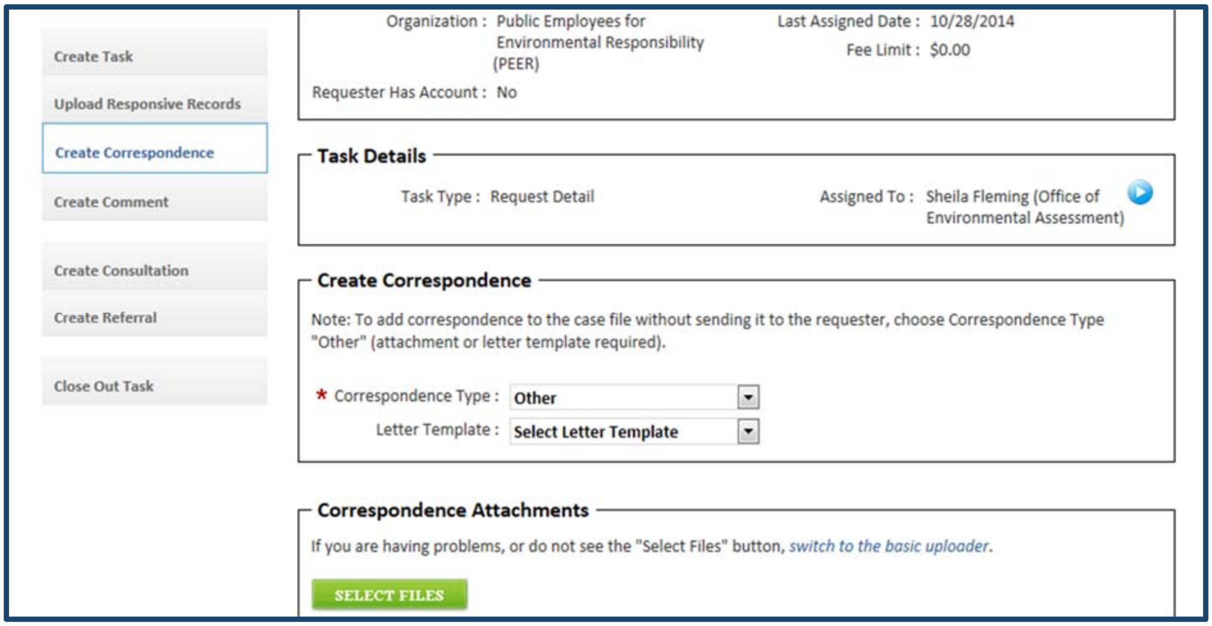
If response is likely to involve greater than 15 responsive records, any withheld or redacted records, multiple offices or more than two SMEs, the Lead Coordinator should work with the FOIA Officer to create a subfolder on the N: drive to use as a repository for responsive and potentially responsive documents. Less complex responsive may not necessitate the use of the N: drive.

- ☐ For simple FOIAs (e.g. only a few SMEs; limited number of responsive records; in the same office; where information requested is fairly easy to acquire), confer with Lead SME to establish:

- Estimated due date collected records to be located reviewed and submitted to Coordinator. (Allowing time for review, processing and preparation of final response before the due date.) SMEs must notify Lead SME and FOIA Coordinator as soon as possible if more time will be needed.
- Who is responsible for communicating with the Requestor and documenting all communications?
- File format and the record collection location.
- Go to Phase 4.

☐ For complex FOIAs (e.g. multiple SMEs, voluminous responsive records, or records are in a variety of forms and locations), Lead Coordinator should confer with the Lead SME and others as appropriate to develop a response strategy. See Response strategy Checklist. The Response Strategy will determine and document how the FOIA response will be accomplished and should:

- Explain the scope of the request.
- Identify all of the Offices/individuals in the Agency who may have records responsive to the request. Each of these people will be assigned a task in FOIAonline as a SME to search for and review their responsive records.
- Estimate cost, time needed, number of documents, [if there is an unusual circumstance notify requester that this will be 30+ days to process (in Phase 4)].
- Determine if assurance of payment is needed. If assurance of payment is needed, stop the clock. See Assurance of Payment sample letter. If the requester provided a fee limit for payment, the request may be processed up to the limit, pending assurance of payment for additional costs.
- Determine who will be responsible for communication with requester. (Generally, this is the Lead Coordinator or Lead SME, but could be case attorney.)
- Determine who will be responsible for communication with the other SMEs. (Generally, this is the Lead Coordinator or Lead SME, but could be case attorney.)
- Decide collection method and storage (e.g. dedicated FOIA share drive or elsewhere).
- Establish schedule for providing FOIA response, including the date that collected records are due to the Coordinator.



Upload a copy of the Response Strategy to FOIAonline by selecting the '**Correspondence**' tab, then selecting the '**Other**'. [*Note: The "Other" designation is to be used for all internal notes, communications, instructions (screen shot below), etc.]*

If needed, contact requester for clarification on scope or assurance of payment.

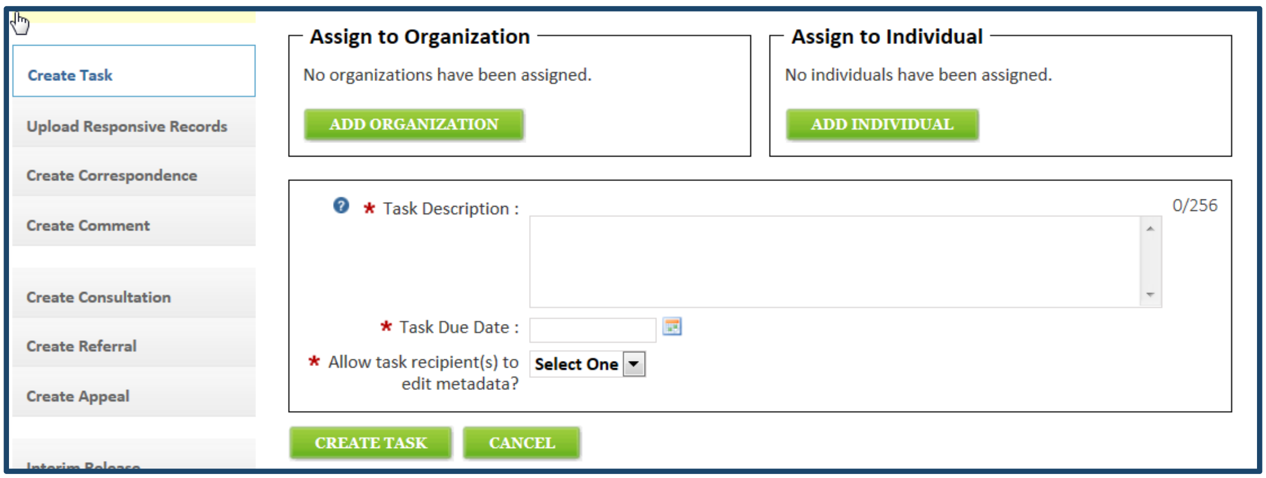
☐ Update FOIAonline, as appropriate, with:

- Communication with Requester.
- Clarified request description and handling Instructions.
- Assurance of payment dollar amount

PHASE 3: ASSIGN TASKS AND TRACK ASSIGNMENTS

Who: FOIA Coordinator and Lead Subject Matter Expert

After completing Phase 2 Step 7 above, the Lead Coordinator shall create FOIAonline task assignments to all identified SMEs (potential records holders) within their office and task assignments to the FOIA Coordinators in other offices with SMEs for this request. This will allow all SMEs to have access to the FOIAonline case file. Notify the Regional FOIA Officer if there is a need to coordinate with Headquarters, other regional offices or other federal agencies.



Step 1 – Tasks SMEs in FOIAonline

The FOIA Coordinator tasks each SME, including managers and case attorneys, in their office in FOIAonline. This should include everyone who is expected to have responsive records. Task information to be communicated to SMEs includes:

- ☐ Information agreed to in the Response Strategy in Phase 2 step 7 above.
- ☐ Clarified request, if applicable.

TOOLS, CHECKLISTS AND TEMPLATES FOR SUBJECT MATTER EXPERTS

- ♦ *FOIA Procedures, Steps 10 - 1 3*
- ♦ *InfoPage - FOIA Process*
- ♦ *Response Letter Templates*
- ♦ *Sample withheld documents table and Excel spreadsheet template*

- ☐ Specific instructions for responding to the FOIA request, e.g., information that will assist in identifying responsive documents; avoiding redundancy if multiple SMEs may have identical responsive documents; communicating with Lead SME if more time is needed consistent with FOIA regulations; etc.
- ☐ Responsive document accumulation location/method (designated share drive, FOIAonline, etc.).
  - **N: share drive** Contact FOIA Officer to set-up FOIA case folder on the N: drive. The parent folder name will be the FOIA case number and FOIA subject or requester name (e.g., 2015-001234 Bristol Bay or 2015-001234 P. Robertson) and will have sub-folders to place appropriate designated records.
- ☐ Lead SME and Lead Coordinator contact info.
- ☐ Interim and final due dates.
- ☐ Directions to begin processing or prepare an estimate of search time.

Within 20 Days EPA Must:

- Respond with a completed response including a letter, withheld document list and or releasable documents, OR
- In unusual circumstances notify the requester that we need an additional 10 days to respond, OR
- Respond by negotiating a new due date that will be beyond a 10-day extension and informing requester of public liaison.

Step 2 –20-Day Response Check

- ☐ The Lead SME, in coordination with the Lead Coordinator, determines whether responsive documents can be collected, processed as needed, reviewed and a response letter prepared and signed within 20 business days. Note: Most simple FOIAs should be completed within 20 days. If FOIA response will be completed within 20 business days, skip to Phase 4.
- ☐ If the response cannot be completed within 20 business days, determine if it is due to an unusual circumstance? Can it be completed with an additional 10 business days?
  - If the answer is “yes”, prior to 20 business days from the date the request was received, the Lead FOIA Coordinator must send a 10-day extension notification to the requestor.
    - Send a letter (via FOIAonline, email or mail if no email address was provided) informing the requester of the 10-day extension.
    - Update FOIAonline with new due date.
    - Upload a copy of the email or letter to FOIAonline.

- If the answer is "no", then the individual identified in Phase 2 Step 7 above contacts requester to discuss a reasonable response timeframe. Note: Do not underestimate the effort and allow sufficient time to respond when establishing the due date.
  - Send a letter to requester detailing scope of estimated records, estimated cost to requester if assurance of payment is needed, estimated date of full or next interim response and other relevant information. Inform the requester that the EPA Public Liaison is available for assistance. See Letter of 10 Day Extension template.
  - Lead FOIA Coordinator to update FOIAonline with new due date.
  - Lead FOIA Coordinator to upload correspondence with requester to FOIAonline.
  - SME or Lead Coordinator as applicable to advise all SMEs of negotiated due date.
  - Provide interim or rolling responses when possible.

Step 3 – Track Progress.

- ☐ The Lead FOIA Coordinator and the Lead SME work together to track progress to ensure gathering of documents is on schedule and response is released according to schedule. Lead FOIA Coordinator tracks due date and the individual identified in Phase 2 Step 7 above communicates with SMEs on progress, as needed, and informs the requester on progress, as appropriate.
- ☐ Lead Coordinator to inform manager as appropriate on progress.

PHASE 4: SEARCH, COLLECT AND REVIEW RESPONSIVE RECORDS

Who: Subject Matter Experts

Step 1 – SME(s) locate responsive records

Each SME, including managers and case attorneys, is tasked in FOIAonline to locate their responsive hard copy and electronic records by searching potential record locations by the project name and/or key words and date range that correspond to the FOIA request, or by sorting email by recipient, sender, subject or date. Note, document search locations will vary based on the scope of the request and includes all devices or locations where responsive Agency records are expected to be found. As applicable, searches should include all of the following:

- Non-email electronic records
- Email- all folders (MS Outlook and Lotus Notes)
- Portable devices
- Lync and other instant messaging software
- Documents on share drives such as OneDrive
- Paper files
- Distributed files
- Regional Central Records Center, RCRA or Superfund Record Centers, Federal Records Center

TOOLS AND CHECKLISTS FOR SMEs

- *FOIA Procedures, Steps 10 and 11*
- *MS Outlook Search Request Form*
- *N: Share Drive*
- *AdobePro XI*

Outlook Email Search

In instances where responsive MS Outlook email can be easily sorted and located, Outlook Email Search Services may not be needed. Otherwise, if a voluminous amount of email exists and/or there are multiple staff/SMEs potentially having responsive emails, use MS Outlook Email Search Services to locate email records.

Contact the regional FOIA Officer or assistant to request and submit an Outlook Email Search Request Form. To help develop strong keywords to ensure a comprehensive search, ask for officer for the Keyword Search Guidance document. OEI eDiscovery team will search and submit search results to the FOIA Officer and lead SME with a link to a PST file (or files depending on deduplication setting). Follow the PST download instructions and save results to the designated share drive folder for the Review process under Step 2 below.

SMEs collect and put a copy of each responsive record in the location identified in Phase 2 Step 7 above (e.g., dedicated FOIA share drive, lotus notes data base, etc.) SMEs should keep track of where they searched as well as the time they spend searching to locate records and determine if records are responsive.

Step 2 – Sort and identify releasable, redacted and withheld documents

Each SME reviews his/her collection of responsive records and makes the initial determination about which ones are releasable, which ones are to be redacted, and which ones are to be withheld.

- ☐ The SME may consult with the applicable Case Attorney or the FOIA Attorney if they have questions, or set aside the documents they are uncertain about for further review by the applicable Case Attorney.
- ☐ Please refer to Region 10 FOIA intranet site for additional information about the FOIA Exemptions.

Step 3 – Convert records to PDF format and save records in the location designated by the Lead FOIA Coordinator in Phase 3

For those documents that need to be redacted, the SME should make a duplicate electronic copy of the original record. Working only on the duplicate (so that the original shows the unredacted text), use applicable software to redact the appropriate portions of the document and to indicate the applicable exemption at the place of redaction. The instructions for how to do this using Acrobat Pro software are located on the Region 10 FOIA intranet site.

- ☐ Be sure to retain the original unredacted document.
- ☐ Retain the original names of emails and email attachments when saving the documents for FOIA responses, so that duplicates can be more readily identified and the attachments can be associated with the original email.
- ☐ Scan and save paper documents in Adobe PDF format.
- ☐ Save each record using the file folder name that follows the folder structure and naming convention decided in Phase 3, Step 1 and 2 or as suggested in the FOIA Sharedrive Guidance. Suggested subfolders for common categories:
  - Files to-be Reviewed
  - Unredacted Releasable
  - Redacted releasable (with subfolders for specific exemptions if needed)
  - Unreleasable (with subfolders for specific exemptions if needed
  - Additional subfolders can be created as needed.

Step 4 – For complex FOIAs with multiple SMEs only (simple FOIAs skip to Step 5), Lead SME or FOIA Coordinator as applicable, removes duplicate documents from file storage location

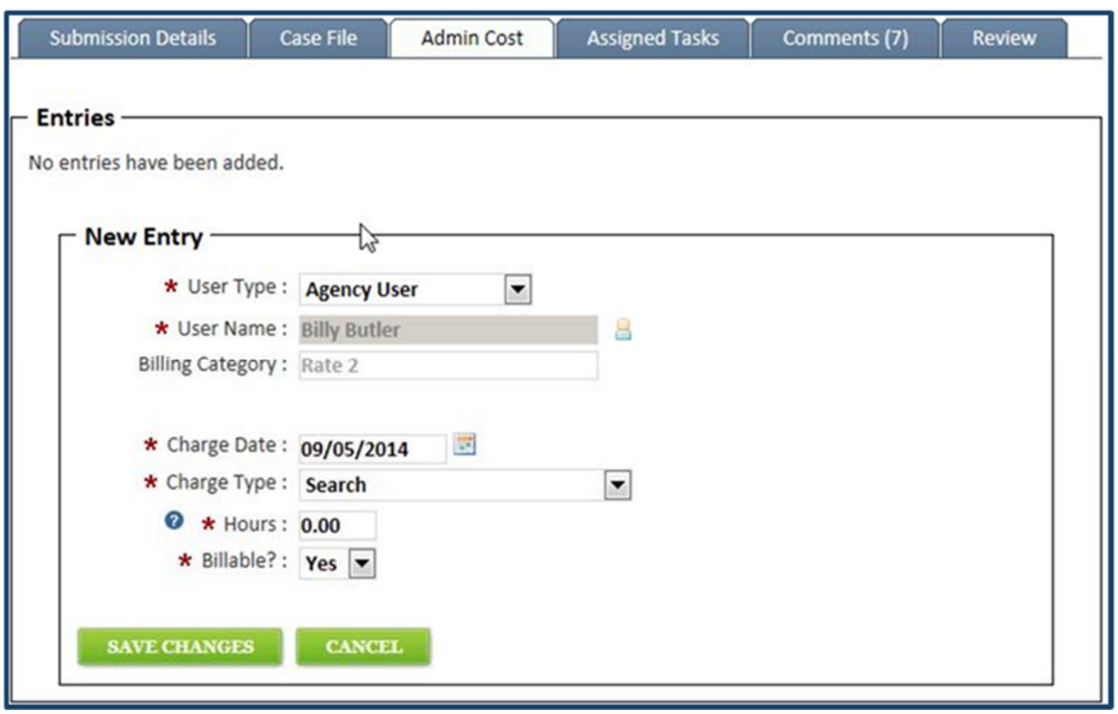
☐ After SMEs have completed placing their responsive documents in the folders designated for the FOIA request, the Lead SME removes all duplicate records.

☐ The Lead SME may also choose to adjust the file names to distinguish files with the same names that are not duplicates (such as with email messages that use the same message header but with slightly different content). Also, in consultation with the Case Attorney or FOIA Attorney as needed, the Lead SME reviews each document in the subfolders and makes any necessary adjustments to the records' assigned categories.

☐ This work may be done in batches to accommodate interim or rolling responses.

Step 5 – Create Admin Cost Entry and close out task in FOIAonline

☐ After all responsive documents have been saved to the designated location, each SME (except the Lead SME and the Case Attorney) closes out their assigned Task in FOIAonline, entering the time they spent on search, review, duplication or other tasks by creating an Admin Cost entry under the Admin Cost tab. Indicate whether the costs are billable. Each SME should note in the text box '**Comments**' tab where they searched for responsive records.



- ☐ For complex responses where responses are produced on an interim or rolling basis each SME should also provide information on their search and review time and duplication costs and where they searched in FOIAonline but do not close out their tasks until they complete their tasks for the final response.

Step 6 – Notify Case Attorney, if applicable, to conduct document review

When the Lead SME finishes reviewing the documents, he/she has the Lead Coordinator assign a task to the Case Attorney, if applicable, that the records are ready for his/her review and indicates a date for the completion of this task.

- ☐ Case Attorney reviews documents to determine if he/she agrees with releasability determinations.
- ☐ If the Case Attorney disagrees with the initial releasability determination, he/she should consult with the Lead SME, program manager and FOIA Attorney, as appropriate.
- ☐ If a Case Attorney is not involved, the Lead SME notifies the ORC FOIA Coordinator so that he/she can task the FOIA Attorney for this step if attorney review is needed.
- ☐ The FOIA Attorney reviews the documents and makes a releasability determination.
- ☐ Once the Case or FOIA Attorney completes the review, they will close their task assignment and include a comments on whether the documents are approved for release. If not approved, the Attorney should include a statement indicating needed corrections. Once corrections are made, the Attorney will be tasked for another review.

Step 7 – Upload documents to FOIAonline

The Lead SME or the Lead FOIA Coordinator, as applicable, will upload responsive, releasable records to FOIAonline and the list of withheld documents. (Currently, Region 10's practice is to NOT upload those documents that are being withheld or the unredacted versions of documents that have portions covered by FOIA exemptions.)

- ☐ Make sure each document has the correct "Release Type". If the record is redacted, check that the correct exemption is applied.

FOIAonline Release Types

UU: Unredacted Unreleasable

RU: Redacted Unreleasable

UR: Unredacted Releasable

RR: Redacted Releasable

Step 8 – Prepare withheld list and draft interim or final response letter and obtain Attorney Review

- ☐ For denials or partial denials, the individual specified in Phase 2 Step 7 above, prepares the consolidated list of withheld documents. See Region 10 FOIA page for the Excel Withheld Document Spreadsheet or the Sample Withheld record Table. There should only be one withheld list for each response. (The response should not include separate withheld lists created by each SME.)
- ☐ Lead FOIA Coordinator prepares draft interim or final response letter (which includes the withheld list as applicable) and notifies the Unit Manager, Case Attorney, or FOIA Attorney if no Case Attorney, that it is ready for review. See Region 10 FOIA page for Sample Response Letters.
- ☐ Case Attorney, or FOIA Attorney if no Case Attorney, reviews response package (including the letter, withheld list as applicable, and the records that have been withheld and/or uploaded in FOIA online.)
- ☐ Case or FOIA attorney select Case File tab to confirm records are uploaded, properly coded, and consistent with response letter and withheld list.
- ☐ Case or FOIA Attorney enters his/her time for review of the case file, indicates in the comment block that he/she reviewed and concurs on the response, and closes task in FOIAonline. In lieu of creating individual task assignments to the UM, Case and/or FOIA Attorney for final case review, a copy of a signed and dated concurrence sheet may be used and uploaded to FOIAonline as 'Other Correspondence'.

Step 9 – For FOIA responses with withheld documents or partially withheld/redacted, documents, notify FOIA attorney of withheld documents for review. (if no withheld documents, skip **to Step 9)**

- ☐ The Lead SME notifies the ORC FOIA Coordinator to task the FOIA Attorney in FOIAonline to review the interim or final response. (This may have been completed in Step 8 above if there is no Case Attorney.)
- ☐ Unit Manager reviews the draft response letter, the records released or withheld and withheld list as applicable, and the records in FOIA online.
    - Case or FOIA attorney select Case File tab to confirm records are uploaded, properly coded, and consistent with response letter and withheld list.
- ☐ FOIA Attorney enters his/her time for review, indicates in the comment block that he/she reviewed and concurs on the response and closes task in FOIAonline.

Step 10 – Upload other documents to FOIAonline

- ☐ FOIA Coordinator uploads internal communications and other comments as 'Other' under Correspondence tab.
- ☐ If records provided in response to a request are not entered into FOIAonline because of special handling requirements or policies, a Placeholder Document must be uploaded with contact information for how to obtain a copy of the response that the Lead Office will maintain and make readily available. See Placeholder Document template.
- ☐ The FOIA Coordinator for the Lead Office keeps the FOIA open in FOIAonline until Phase 5 is completed.

PHASE 5: FINAL PROCESSING AND RELEASE OF RECORDS

Who: FOIA Coordinator, LEAD Subject Matter Expert, and FOIA Attorney

Step 1 –Route Interim or Final Release Letter for Concurrence

FOIA Coordinator or Lead SME finalizes the response letter and circulates it for concurrence as appropriate.

For simple FOIAs, minimal review may be appropriate, for more complex FOIAs the following people may need to review and concur on the response letter:

- FOIA Coordinator
- Lead SME*
- Manager in the lead Office (for responses releasing any documents)
- Case Attorney (if involved in the subject matter of the request)*
- FOIA Attorney (required for responses with withheld documents)*
- FOIA Officer (required for responses with withheld documents)

**Substantive review by the SME and attorneys should have occurred in Phase 4 steps 8 and 9.*

Route a concurrence sheet prior to signature or obtain and document concurrences via FOIA online (this may depend on the Office Director's preference.) See Region 10 FOIA intranet site for concurrence sheet template. The signed and dated concurrence sheet must be uploaded to FO prior to FOIA Officer's final review.

If responsive records are released, a manager in the Lead Office must concur on the response letter. Lead Coordinator assigns a task to the designated manager to review the response letter and to indicate in the comment block that he/she reviewed and concurs on the response and to close the task when his/her review is completed. The manager may open the Case File tab in FOIAonline to review the records to be released or may review them in the dedicated FOIA share drive.

Step 2 – Obtain appropriate signature

The Lead FOIA Coordinator formats and prints the response letter for the Office Director's signature. Provide the concurrence sheet for the Office Director's review.

The Director in the Lead office signs the interim or final response letter releasing or withholding any records or portions of records.

The Lead FOIA Coordinator date stamps the letter on the day it is signed by the Office Director.

Step 3 – Upload signed letter to FOIAonline

On the day the letter is signed, the FOIA Coordinator uploads the signed letter to FOIAonline under 'Other' correspondence and tasks it to the Regional FOIA Officer for final review.

Step 4 – Begin Close Out Process

The Lead FOIA Coordinator selects '**Begin Close Out Process'** from action menu. FOIAonline will prompt Coordinator to enter the disposition (grant, partial grant/partial denial, full denial, etc.) FOIAonline will send email notification to listed Reviewer(s) that a review task is waiting for their review.

Step 5 – Final Review by Regional FOIA Officer

Regional FOIA Officer reviews FOIAonline case file:

- ☐ Comments tab – note any special handling instructions and follow through, review comments/responses, review entries under Correspondence tab (e.g., confirm that communications between agency and requester, internal emails, etc. are uploaded,). Review ORC task comments.
- ☐ Task Assignment – verify all tasks are closed. (This may not be applicable for interim response.)
- ☐ Admin Cost Entries – confirm that all everyone have entered costs or indicated that they spent no time on the FOIA.
- ☐ Records tab – check if publish codes match request for final disposition. Verify that exemptions codes are selected for redacted documents.
- ☐ Financing/invoice – Confirm that invoice calculated properly and that date is accurate. If request is billable, send PDF copy of invoice to Heather Russell, Cincinnati Finance Center. (Not applicable for interim responses.)
- ☐ Review final disposition and response letter for completeness and accuracy.

Step 6 – Approve or Reject Review Task

If everything in the case is correct and complete, the Regional FOIA Officer will approve the review task. If corrections are needed, the Regional FOIA Officer will provide detailed comments/instructions in the comment field and reject the review task. If rejected, the case returns to Lead Coordinator to make corrections or to complete closure process.

Step 7 – Lead Coordinator Attaches Invoice, Response Letter and Withheld Document List

If no additional changes are needed, the Lead FOIA Coordinator will complete the close out in FOIAonline. If the request is billable, select '**Yes**' to attach the invoice. Select the final response letter and withheld document list and click '**Save**'. FOIAonline will prompt the Coordinator to enter their password then click '**Close Case**'. The Final Disposition Notification is sent to the requester.

≈Case closed!≈